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PROPER SAFEGUARDS FOR THE INITIATIVE AND REFERENDUM PETITION

W. A. SCHNADER

Member of the Philadelphia Bar

There is probably no problem in connection with the practical operation of the initiative and referendum on which opinions differ so widely as upon that of the proper safe-guarding of the petition. In every direct legislation State a petition is required to invoke either the initiative or the referendum; and in practically every State certain safeguards have been established either by constitutional provision[1] or by statutory enactment, to prevent the initiative petition from being prostituted by unscrupulous enemies of direct legislation or by those whose zealous advocacy of the initiative and referendum overbalances their judgment.

At the outset, there is one proposition upon which all fair-minded students of government will agree, namely, that if the initiative and referendum has been established in a state constitution as a part of the State's governmental machinery, its operation should not be impaired or destroyed by indirection. Let the enemies of direct legislation openly endeavor to abolish it by amending the constitution; but failing in this purpose, they should certainly not so hobble the initiative and referendum petition under the guise of safeguarding it, as to nullify the institution itself. The framework of government should not thus be made the victim of political tricksters. Accordingly any provision ostensibly to protect the petition from misuse, which in reality aims to prohibit its legitimate use, is utterly improper and unfit.

[1] For analysis of constitutional provisions, see *Index Digest of State Constitutions* published by the New York Constitutional Convention Commission, 1915, pp. 761–791.

What, then, is the proper function of safeguards for the initiative and referendum petition? This inquiry compels another: What are the proper purposes of the initiative and of the referendum themselves? Two distinct answers to this question will be heard, inspired by two distinct schools of political thought. On the one hand, some will say that the purpose of the initiative and referendum is to educate the electorate in self-government to the fullest possible extent; to teach the voters that they are part and parcel of the government to which they pay tax tribute; that the laws under which they live and move are the creatures of their volition, not of a higher power to which they are subordinate. Reasoning along such lines, they will argue that it is desirable to have the greatest possible number of measures on the ballot at each election, and that the only proper safeguards for the petition are such as will prevent it from being tainted with forgery or fraud. Beyond these restrictions, the particular method of circulating the petition is immaterial. In other words, under this reasoning the only function of the petition is formally to bring initiated or referred measures before the people, meaning, of course, the voting population.

Another group insist that the initiative and referendum is but another check on representative government. Its function, under this view, is to prevent misrepresentation; to make possible the passage of laws which the legislature has refused to enact despite a public demand therefor, and to enable the voters to place their composite veto on measures which have been written on the books in defiance of the popular will. The education of the electorate in governmental action is an incident of the use of the initiative and referendum not its primary purpose; and the success of the initiative and referendum in any State is in inverse proportion to the number of initiated and referred measures. If few laws need be initiated and referred, the legislature is representing the electorate; and the initiative and referendum is accomplishing its highest purpose if it inspires in legislators a wholesome respect for the power of public opinion. Under this view, the petition is intended to represent the convictions of those who sign it; and any safeguard is proper which tends to prevent the

petition from representing only a certain amount of blind industry, rather than the settled belief of a stated percentage of the electorate that a certain measure should be written on the books by the voters directly or nullified after its adoption by the legislature. It is appropriate to keep in mind these two points of view in examining and passing upon the propriety of the safeguards which have actually been established in various direct legislation States, or in suggesting new safeguards. An analysis of provisions to protect the petition shows that they may be conveniently separated into five groups as follows: (1) Safeguards to protect the petition-signer; (2) Measures to prevent fraudulent signatures; (3) Provisions to enable fraud to be detected; (4) Penalties to punish fraud; (5) Safeguards to prevent measures for which there is no real demand from appearing on the ballot. The safeguards falling under these group-headings will be taken up in order.

I. SAFEGUARDS TO PROTECT THE SIGNER

In practically every State an initiative petition is required to contain a full and correct copy of the text of the measure which forms its subject matter. Accordingly any voter whose signature is requested may, if he chooses, read the measure in order to know at first hand what it contains. With regard to referendum petitions, the voter is not so generally given the benefit of this precautionary requirement for the reason, perhaps, that measures passed by the legislature are assumed to be somewhat familiar to the public, and, in any event, they are of public record, and may be examined by those who persist in knowing their contents.

That the publication in the petition itself of the text either of a proposed initiative measure or of a referred legislative act is a proper safeguard will doubtless not be questioned under any theory of the function of the initiative and referendum.

A second provision for the benefit of the signer is the requirement that across the top of every *initiative* petition shall be printed in large black-face type the words: "*Initiative Measure*

to be Submitted Directly to the People" or "*Initiative Measure to be Presented to the Legislature*" as the case may be. In only three States, California, Michigan, and Ohio, are distinctive petition-titles required for initiative petitions; and in no State is a distinctive title specified for use on a referendum petition.

To require the nature of the petition to be plainly declared in large type certainly appears to be quite a harmless provision, and it may perhaps serve to prevent the deception of unwary persons as to the purpose of the document presented for signature.

One other safeguard for the benefit of the signer is the constitutional requirement in Ohio,[2] that every circulator of a petition shall swear that the petitioners signed with knowledge of the contents of the petition, thus imposing on the circulator the duty of informing those whose signatures are sought of the exact nature of the measure which it contains. Ohio also permits what may be termed an optional safeguard for the signer. The proponents of any petition are allowed to present to the attorney-general of the State a short synopsis of the proposed or referred measure.[3] If the attorney-general approves the synopsis it may be printed in capital letters on the petition. The entire text of the law must also be presented though the petition contains a synopsis. It might indeed be well to require, not merely to permit, an approved synopsis of the measure which it contains to be printed on every petition.

Another provision of the Ohio law requires the petition to contain a statement signed by the circulator, showing how much he is to receive, or has received, for his services in circulating the petition.[4]

II. SAFEGUARDS TO PREVENT FRAUDULENT SIGNATURES

The selection of proper safeguards to prevent wholesale frauds in procuring signatures for initiative and referendum petitions has been the storm centre of violent controversy even among the most ardent friends of the initiative and referendum. That

[2] *Constitution of Ohio*, Art. II, Section 16.
[3] *1914 Laws of Ohio*, p. 119, Section 5175–29c.
[4] *Ibid.*, Section 5175–29g.

fraudulent signatures have been discovered on petitions cannot be denied; and that fraud has been charged in connection with many other petitions is a fact which makes the safeguarding of the petition against fraudulent signatures an important problem.

In a celebrated Oregon case,[5] the highest tribunal of the State found that in order to procure the necessary petition to refer and delay an appropriation for the University of Oregon:

> The promoters were compelled to employ an attorney to secure the necessary signatures. This in itself was not an unusual course, as it is difficult to find citizens who are so devoted to their principles as to be willing to circulate such petitions without compensation. They employed Mr. Parkinson of Portland, who undertook to procure such signatures for 3½ cents a name. He employed a large number of circulators, who went forth into the highways and byways to procure signatures. Seven of these, at least, devised an easy method of earning their money. They would get together and pass their petitions around each signing a few names in a disguised hand, thus minimizing the chance of detection. These forgeries were clearly proved, mostly by the admissions of the parties. The petition as filed contained 13,715 names. Of these it is admitted that 3,778 are forgeries, perpetrated by dishonest circulators.

In 1912, both the secretary of state and the governor of Colorado called attention, in public documents,[6] to the prevalence of fraud in the circulation of initiative and referendum petitions.

Up to 1913, eleven measures were submitted to the voters of Oklahoma under the initiative and referendum. Fraud was charged in connection with the circulation of the petitions for eight of the eleven measures. Seven other measures were kept from the Oklahoma ballot during the same period of time because of the discovery of fraudulent signatures upon petitions which, in each case, appeared to contain the required number of names.[7]

Charges of fraud have also been made in California and other

[5] *State ex rel. v. Olcott*, 62 Oregon 277 (1912).

[6] The secretary's of state annual report, and the governor's message, respectively.

[7] See report of the secretary of state for 1912.

States. It is evident therefore that something should be done to prevent these practices. Even though the percentage of petitions alleged to have contained fraudulent signatures is comparatively small, and even though only a small proportion of all the signatures on fraud-tainted petitions are actually unlawful, it is desirable if possible to prevent all fraudulent practices arising out of the preparation of the petition, whatever the theory which underlies the initiative and referendum. Even if the petition serves no other purpose than to indicate that a minimum amount of energy has been expended to procure names of the number established by law, the legal requirement should be honestly fulfilled; and it is obvious that if its purpose is to represent not merely the industry of the circulators, but the convictions of the signers as well, fraudulent practices wholly subvert its intended function.

Admitted that fraud should be eliminated, how can it be done?

Practically all the States provide that only qualified electors shall circulate petitions; but the moral fiber of the electorate is neither uniform nor without blemish; and this safeguard while eminently proper is evidently comparatively ineffective. Similarly some States require every signer to state that he is a qualified voter, and in most States an affidavit is required either by the circulator of the petition, one of the petitioners or a qualified elector, to the effect that the signatures are genuine to the best of the affiant's knowledge and belief, that they were made in his presence, and (sometimes) that the signers are electors to the best of his knowledge and belief. These again are absolutely appropriate protective requirements, but their efficacy is open to serious question. The sanctity of the oath seems to be becoming less and less in popular esteem, and it is therefore doubtful just how far these precautionary steps go in eliminating dishonest practices.

In a number of States a warning is printed on the outside page of every petition to the effect that every person who shall sign the petition with any other than his true name, or shall knowingly sign the same petition more than once, or who shall

sign though he is not a legal voter, or otherwise violate the law relating to the signing of the petition shall be punished by fine or imprisonment. This again is a safeguard which all will doubtless acknowledge as absolutely proper. Its practical effect depends to some extent upon the penalty imposed on the law-breaker.

In addition to these precautions which are admittedly proper if effective, two States absolutely prohibit solicitation of names for pay, and one of them requires in addition, that all petitions be signed at the public offices for registration of voters, thus entirely doing away with the private circulation of petitions either by volunteers or for hire.

In South Dakota a statute enacted in 1913[8] requires every circulator of a petition to take an affidavit stating, among other things:

> That I have received no compensation whatever or promise of compensation for my services in circulating said petition.

The State of Washington has gone further than other State in its efforts to prevent the misuse of the petition. An act passed in 1915[9] over the governor's veto provides that initiative and referendum petitions may be deposited with the registration officer of any city, town or precinct. The registration officers are required to give receipts for any petitions left with them, and to display in a conspicuous place in the office, placards bearing the words: "*Initiative or Referendum Petitions may be Signed Here.*" Every registration office in which *referendum* petitions shall be left for signing is required to be open for that purpose each Friday and Saturday evening between the hours of six and nine, for ninety days following the adjournment of the legislature. If initiative petitions are left for signing, the

[8] *1913 Laws of South Dakota,* ch. 203, p. 277.

[9] *1915 Laws of Washington,* p. 186. Compare provisions in the Michigan Constitution of 1908 (Art. XVII, Sec.2) requiring petitions for constitutional amendments to be signed at regular registration or election places under the supervision of and verified by the officials thereof. These requirements were omitted in the amendment adopted in 1914.

registration offices must be open Friday and Saturday evenings during ninety days preceding the time when the petitions must be filed with the secretary of state. Petitions may also be signed at any time when the offices are open for the registration of voters. It is the registration officer's duty always to have enough deputies on hand to accomodate voters desiring to sign petitions.

The procedure for signing a petition in the registrar's office is as follows:

If the applicant is not a registered voter, he must register in the manner provided by law before he may sign a petition. If he asserts that he is a registered voter, it is the duty of the registration officer to make such inquiries concerning the applicant's birthplace, age, occupation and place of residence as will identify him, and if the answers correspond with the information contained in the registration book, the officer must ascertain whether the applicant has previously signed the same petition. If not, he will be permitted to sign. The officer must then compare the signatures, and if the signature in the petition appears to be in the same handwriting as the signature on the registration book, the officer must enter upon the petition, opposite the signature, the residence-address, precinct-number, ward, and the name of the city or town of the voter as shown by the registration book. This being done, the officer must indorse the signature with his own initials in a space reserved for the purpose, and must also write on the petition the number given it by the secretary of state, when notice was given him, prior to the placing of petitions at the registration offices, that the particular measure would be initiated or referred.

If the signature on the petition does not correspond with the signature in the registration book, it is the officer's duty to refuse to initial and certify it.

When the proponents of the petition desire to retake possession of the various sections which have been left at the registration offices, they present their receipts for the same, whereupon the registration officers are required to draw red ink lines perpendicularly through all blank spaces for signatures, and to

fill out certificates showing the number of initialed signatures on the petitions, and stating that they have complied with all the formalities required by law.

As a complement to this system of petition-signing, the same statute contains very drastic so-called corrupt practices features. It makes it a gross misdemeanor for any person: (1) to sign or decline to sign a petition for any consideration, compensation, gratuity, reward or thing of value or promise thereof; (2) to advertise in any newspaper or by any other means that he will solicit signatures, or influence, or induce, or attempt to influence or induce, persons to sign or not to sign any petition, whether the solicitation or influence is to be for or without pay; (3) to solicit, procure, or obtain, or attempt to procure or obtain, signatures upon any petition; (4) to pay, or offer to pay, any consideration of any sort to a person for signing or refusing to sign a petition, or for soliciting signatures, or to vote for or against an initiated or referred measure; (5) to interfere with, or attempt to interfere with, the right of any legal voter to sign or not to sign a petition, by any other corrupt means or practice or by threats or intimidation; (6) in, or within one hundred feet of, the entrance to any registration office to solicit or attempt to induce any person to sign or not to sign a petition; or (7) wilfully to violate any provisions of the statute.

The sum and substance of this law is, therefore, to prohibit entirely the circulation of petitions, and to require voters to go to the petition instead of having the petition brought to them. Does this system provide an effective safeguard against fraud and if so, is it proper?

That fraudulent signatures should be next to impossible under the Washington system seems obvious. In addition to this advantage, it is equally clear that there need be no complicated system of checking the validity of signatures after the filing of the petition. In some States which permit the circulation of petitions, a public officer is required to compare the signatures on the petition with the registration books after the petitions have been filed. In California, for example, this is done by the county clerk or registrar within twenty days after any section

of the petition has been filed with him;[10] but it would evidently be much easier to perpetrate fraud under the California than under the Washington system. Indeed it is difficult to imagine a more effective safeguard than that provided by this latest innovation. On this point there can, it is submitted, be no conflict of opinion.

Is the Washington system a proper safeguard, or will it tend to destroy rather than to protect the usefulness of the initiative and referendum? In answer to this question there will be violent disagreement. On the one hand, it will be argued that unless voters are willing to go to the registration office to sign a petition, they evidently possess no conviction on the subject which warrants the submission of the measure to the voters. To this assertion the answer will be made that voters, however deep their convictions, will not go to registration places to sign petitions and that the Washington system will therefore virtually emasculate the initiative and referendum. Whether this is a theory or a fact will be seen after the Washington law has been in operation. If it is true, it is clear that the Washington system is not a proper safeguard under the first or educational theory of the function of the initiative and referendum.

Under either theory of the office of direct legislation, it will doubtless be found that the percentage of voters required to sign petitions should be somewhat reduced if the Washington plan is to be adopted. If 5 per cent of the voters is the proper number to sign a petition which is carried about by voluntary or paid circulators, 3 per cent would probably be ample if the signers must seek the petition. If the percentages be fairly adjusted on account of the added inconvenience to the signer, the Washington system certainly seems to afford the ideal safeguard if the ultimate purpose of the initiative and referendum is to check misrepresentative government.

On the question of prohibiting paid circulation in States which still allow petitions to be carried to the voter there is also a pronounced difference of opinion.

[10] *Constitution of California*, Art IV, Section I.

The facts bearing on this controversy between the adherents and the opponents of paid name solicitation are as follows:

1. Practically every petition upon which fraudulent names have been discovered has been circulated by paid solicitors. Indeed after extended investigation the writer knows of no instance in which fraudulent names have been found after their filing upon petitions circulated by volunteers.

2. The large majority of initiative and referendum petitions are circulated, in part at least, by paid circulators, who receive from three to fifteen cents the name. The persons hired for this work, as a general rule, beyond its financial return to them, have no interest in it. In some instances, however, where large organizations are back of the particular initiative or referendum movement, the paid circulators are recruited from the organization itself, and their only remuneration is an amount sufficient to compensate them for their loss of wages.

3. A number of petitions have been circulated wholly by volunteer work, and others have been circulated almost exclusively by this method, paid help being called in at the finish to procure a small number of signatures. Petitions which have been circulated by voluntary effort have in all but one or two instances contained measures which had been freely discussed by and before the public. Suffrage measures, liquor laws and amendments, and primary laws, seem to prevail. And it is alleged by those who know that it is next to impossible to procure sufficient names by voluntary effort for petitions containing less widely known measures, except perhaps measures which may properly be classified as "labor" or other legislation appealing to a large and influential class.

4. There appears to be no instance in which fraud has been charged in connection with the circulation of a petition wholly or largely by volunteer workers.

5. Those who are opposed to the paid circulation of petitions assert that in many instances the paid circulator resorts to every form of persuasion and often to misrepresentation to procure names. He insists that the voter's signature does not commit him to the measure or to its principles; it merely means that the

signer is willing to have the question brought before the electorate, and it enriches the circulator by a few cents. Or, it is charged, the nature of the measure is explained to suit the taste of the circulator's victim, as the circulator has prejudged the signer's particular governmental or political leaning. Very few persons read the measures contained in petitions, and as a result signatures are often obtained on petitions to which the signers are unalterably opposed.

The facts given do not prove conclusively, of course, that paid petition circulating breeds fraud; it may have been only a coincidence, that the instances in which fraud has been found were petitions circulated by persons for hire. But it does seem clear that where the entire work of procuring the signatures necessary to secure a petition has been done by volunteer workers, the petition is much more likely to show a settled desire for or opposition to the initiated or referred measure than a petition completed by workers having no interest whatever in the measure itself. Certainly if the initiative and referendum are to be a governmental safety valve, or to use the President's simile, like the musket over the cabin door, to be taken down only in time of danger, it is desirable to encourage voluntary work in soliciting signers to petitions, and to discourage or even to prohibit circulation for pay.

If, on the other hand, the petition is a mere formality, why require a large number of meaningless signatures to be procured? Would it not be far better to require petitions to be signed by only a few voters and permit them to be filed upon the payment of a fee to the State equivalent to three or five cents for every name now required?

To illustrate: Suppose a chamber of commerce determines to initiate a "blue sky" law. There is no known public sentiment for the measure. It has never been before the legislature and few voters understand its meaning or its purpose. Its proponents, believe, however, that once the measure is initiated it will excite popular interest in all quarters. Twenty thousand names are required on the petition. The proponents of the measure realize that the necessary names will not be procured by volun-

teers. They advertise for circulators at three cents the name. There are many applicants, and in five days the petition is complete at a cost of $600. Evidently the petition is not the spontaneous expression of 20,000 voters that their legislature has misrepresented them; and if petitions are to be allowed under such circumstances, why not allow them to be filed upon the payment of the State of a substantial fee, discounted perhaps, according to the number of signatures which have been procured by volunteer circulators? The result would be the same as that obtained under the present method, at the same time that there would be less trouble and expense to the sponsors of the initiative or referendum campaign, and no inducement whatever to the perpetration of fraudulent practices. Fees thus paid to the State could be used to defray *pro tanto* the expenses of giving proper publicity to the measures placed upon the ballot.

Ohio follows what was probably intended as a middle course on the question of paid circulation. Every circulator is required to state on the petition over his signature, exactly what he is to receive for his services. To this requirement, it will be difficult for anyone to take exception.

To summarize, it appears that proper safeguards to prevent fraudulent practices in connection with the procurement of signatures depend upon which theory of the function of the initiative and referendum we accept.

If direct legislation is to be merely a specific for non-representation or misrepresentation, the petition should bespeak the convictions of its signers. It should be prepared without the artificial stimulus of the professional name procurer, or, perhaps, it should be signed at the registration place under the direct supervision of public officials. In this event, and also if solicitation of names for pay be forbidden, the number of names required should be fixed with due regard to the purpose of the initiative and referendum, and in such a way as to promote and not to destroy its usefulness. Existing percentages in direct legislation States would be, generally speaking, too high.

If, on the other hand, the initiative and referendum is primarily a great educative institution, the petition is a mere

matter of form. It does not necessarily represent anything, but is intended to prevent the ballot from being literally swamped with measures. This being so, any deterrent will serve just as well as the requirement that each petition contain a huge array of names. A fee for filing the petition, large enough to prevent the excessive submission of measures would eliminate the fraudulent practices now alleged to be in vogue, and would assist in paying the expenses incident to the proper operation of direct legislation.

III. SAFEGUARDS TO ENABLE FRAUD TO BE DETECTED

In States which allow petitions to be circulated among the voters, it is usual to require each signer to give certain information with his signature which will make possible the detection of fraud by the public officer charged with the duty of checking up the petition. The signer is usually required to state his residence, giving street and number, if any. In some States he must also give the date of signing and the ward and election precinct in which he lives.

Any such safeguards are eminently proper under any theory of the purpose of the initiative and referendum.

In most States petitions need not be compared with the registration lists; the secretary of state is merely required to ascertain if a petition contains the requisite number of qualified voters. This is not the case in California and Ohio where the county clerk or registrar is required carefully to examine any sections of a petition circulated in his county with a view to the discovery of any fraudulent signatures.[11] To make such an examination possible, the California constitution further provides that no section of a petition may be circulated in more than one county, and that all the sections circulated in any one county must be filed with the county clerk or registrar. An Ohio statute establishes practically the same system.[12]

[11] *Constitution of California*, Art. IV, Section 1; *Laws of Ohio, 1914–1915*, p. 295, Gen. Code, Section 5175–29i.

[12] Ibid.

The California and Ohio safeguards seem above criticism; their only result if properly administered will be to preserve the integrity and honesty of the petition.

IV. MEASURES TO PUNISH FRAUD

In a number of States besides Washington stringent corrupt practices acts and constitutional provisions are in force, applying to the circulation of initiative and referendum petitions. In New Mexico the constitution makes it a felony to abuse the petition in any one of several ways.[13] The Ohio legislature in 1914 enacted the most recent corrupt practices statute applying to petitions.[14] It inflicts a severe penalty upon any person who directly or indirectly:

(1) Misrepresents the contents of a petition;

(2) Pays or offers to pay any voter for signing a petition;

(3) Promises to help another to obtain appointment to office as a consideration for obtaining signatures to a petition;

(4) Obtains signatures on the strength of a promise of the above type;

(5) Alters in any way a petition after it has been filed;

(6) Fails to file an itemized statement within twenty days after he has filed a petition showing:

(a) All moneys paid for circulating the petition,

(b) Names and addresses of persons to whom payments are made,

(c) Names and addresses of persons who contributed to the fund to pay for circulating the petition,

(d) The time spent and salaries earned while circulating or soliciting signatures to petitions by persons who were excused from their regular employment by their employers so that they might procure names,

It is beyond dispute that the severest penalty consonant with modern thought is not too harsh for the person who violates the sanctity of the ballot or who attempts to abuse any part of our duly constituted governmental machinery; and every direct legislation State should therefore throw around the initiative and referendum petition, the protection of corrupt practices provisions such as those now in force in Ohio.

[13] *Constitution of New Mexico*, Art. IV, Section 1.

[14] *1914 Laws of Ohio*, p. 119; cf. *Laws*, 1914–1915, pp. 295, 443.

V. SAFEGUARDS TO PROTECT THE ELECTORATE AGAINST THE PETITION

There is one other class of safeguards to be discussed. Certain measures are necessary to prevent the initiative and referendum from being overworked. The preventive most frequently suggested is the elimination of paid name solicitation. This has already been discussed, under another heading. Unquestionably to compel every petition to be completed exclusively by volunteer effort, will result in fewer initiated and referred measures. If the percentage of required signatures is properly adjusted so as not to render the use of the reserved powers impossible in appropriate cases, many persons would welcome such a result. To others it seems desirable to place the least possible restriction on the initiation or reference of measures. They therefore object strenuously to the prohibition of paid name getting merely to restrict the free exercise of direct legislative powers.

Another safeguard exists in quite a few States in the shape of a requirement that the stated percentage of signers be procured in a given number of counties or congressional districts. For example, in Missouri an initiative petition must bear the signatures of 8 per cent of the voting population, and included in the 8 per cent there must be 8 per cent of the voters in two-thirds of the congressional districts of the State.[15] Somewhat similar provisions are contained in the constitutions of Montana,[16] Nebraska,[17] Ohio,[18] and North Dakota.[19] The purpose of this requirement is to prevent measures from appearing on the ballot which are of interest to only a small section of the State, which may, however, be able to supply a petition containing the requisite number of signers. If this restriction renders it practically impossible to procure the necessary number of signers to any petition, it is obviously not a safeguard but a barrier, and is

[15] *Constitution*, Article IV, Section 57.
[16] *Constitution*, Article V, Section 1.
[17] *Constitution*, Article III, Section 1 A.
[18] *Constitution*, Article II, Section 1 B.
[19] *Constitution*, Article II, Section 25.

improper. This is certainly true of the provision of the New Mexico constitution requiring not less than 10 per cent of the voters of each of three-fourths of the counties of the State to sign petitions.[20] If, however, the number of districts through which the petition must be circulated is reasonably small, let us say not more than one-half of the State's territory, it seems quite proper to require that the petition give evidence of more than an entirely local interest in the proposed or referred measure. Some of those most interested in the success of direct legislation have expressed themselves to the writer as not opposed to this safeguard.

In conclusion it is evident that the present tendency is to increase the safeguards surrounding the initiative and referendum petition, especially in so far as the prevention of fraudulent signatures is concerned. This tendency is highly commendable if honestly conceived and properly tempered with practical judgment. If the people of a State have no further use for the initiative and referendum, they should abolish it; and, of course, if a majority of the electorate desire direct legislation to be retained but shackled, they are within their prerogative. But a few office holders have no right to assume to restrict the usefulness of these institutions by requiring unfair and impossible formalities in connection with the circulation of petitions.

The recent legislation in Ohio appears to be unobjectionable, and intended only to prevent improper practices. The Washington legislation, on the other hand, seems too strictly to confine the usefulness of direct legislation. Its theory may be correct, but practically it seems very doubtful whether 10 per cent of the State's voters will ever go to the registration places to sign an initiative petition or 6 per cent a referendum petition.

[20] *Constitution*, Article IV, Section 1.